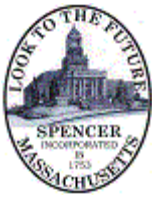


Conservation Commission – Town of Spencer

Minutes



Conservation Commission Meeting
Wednesday, March 8, 2017 at 7:00 PM
Town Hall, McCourt Social Hall

The Meeting was opened at 7:01 p.m.

Commissioners Present: Warren Snow, Margaret Emerson, James Bouley, Brian Graeff, Kaitlin Desmarais

Commissioners Absent: Mary McLaughlin, John Haverty

Staff present: Margaret Washburn

Sign: Richland Avenue, Duplicate Certificate of Compliance

Minutes Approved: February 22, 2017 – *A motion to approve the minutes as amended (Emerson/Bouley) passed 5/0.*

7:26 p.m. Opened the Continuation of Public Hearing for Notice of Intent for Jim Hansen

Property: 68 & 70 Donnelly Road, Spencer, MA DEP#293-0898

Scott Morrison, from EcoTec, said he submitted updated plans for the Commission's review. The peer review engineer has signed off on everything. A waiver was requested for the shrub plantings in the basin. The stormwater permit needs to be issued after the driveway permit and shared driveway special permit are issued. Mr. Morrison asked the Commission to vote tonight on the waiver. The Commission declined to vote on the waiver until they vote on the Order of Conditions.

Ms. Washburn suggested the following special order and finding be put in the Order of Conditions:

Draft special order:

"Prior to construction, a stormwater surety bond is required to ensure the work is completed according to the permit, in the amount of \$12,109.20, including a ten percent administration fee and a ten percent contingency fee. Fifty percent of the stormwater surety bond shall be released when the project is rough graded in compliance with the approved plan, but the stormwater surety bond shall not be fully released until the Stormwater Authority has issued a Partial Certificate of Compliance. The Partial

Certificate of Compliance shall not be issued until after the house at 70 Donnelly Road has been constructed and the stormwater management devices on both 68 and 70 Donnelly Road have been constructed and permanently stabilized, except for the driveway over the swale, culvert and associated headwalls on 68 Donnelly Road. The Conservation Commission shall have forty-five (45) days to review bond amounts and requests for partial or full release.”

Draft Findings:

“The Spencer Conservation Commission hereby waives a parameter of Section 6A of the Spencer Stormwater Regulations adopted by the Spencer Planning Board on 12/20/2011, and last revised on 5/17/16, to allow the planting of a total of twenty (20) highbush blueberry (*Vaccinium corymbosum*), shadbush (*Amelanchier canadensis*), sweet pepperbush (*Clethra alnifolia*) and common winterberry (*Ilex verticillata*) shrub plantings to the floor of the stormwater basin at 68 Donnelly Road. This is the only waiver granted from the Spencer Stormwater Regulations cited above.”

The hearing has been continued to April 26, 2017.

7:37 p.m. Opened the Public Meeting for Request for Determination of Applicability for Michael Ross

Property: 70 Chickering Road, Spencer, MA

Jay Gallant, architect, presented the plan. He said the project is to construct a second-story addition over approximately half of the house. The work is in the buffer zone to Stiles Reservoir. A sediment control barrier will be installed from property line to property line, surrounding the house. An oil absorbent boom will be installed. They will stockpile material between the house and the lake. The Commission read the inspection report and viewed the photos.

A motion to close the public meeting (Bouley/Graeff) passed 5/0.

A motion for a Negative Determination (Graeff/Emerson) passed 5/0.

7:46 p.m. Opened the Public Hearing for Notice of Intent for Town of Spencer Water Department

Property: 3 Old Meadow Road, Spencer, MA DEP#293-

At the request of the applicant, the hearing has been continued to April 12, 2017.

Other Business:

Sugden Reservoir Extension Request: Ms. Washburn said the Order of Conditions was issued on 8/25/08. The Commission decided that a new Notice of Intent must be filed. *A motion to deny the Extension (Graeff/Emerson) passed 5/0.*

Candlewood Phase II Road: Ms. Washburn said the approved NOI plan has been missing from the ODIS office since before she started working here. There is an approved Planning Board plan but the date of that plan is different from the date of the

plan approved under the Order of Conditions issued on 11/29/07. Ms. Washburn said she tried to get a copy of the plan approved from the Notice of Intent from Murklands, former owners of Candlewood Phase II, from EcoTec, the wetlands consultants, and from Graves Engineering, the design firm, with no success. She said DEP says the easiest way to get an approved plan to use when issuing the Certificate of Compliance is: allow the applicant to draw sediment controls on the plan approved by the Planning Board, have him submit three copies and request to amend the Order of Conditions. The hearing must be re-opened and abutters must be notified.

Ms. Washburn said the Order of Conditions for Candlewood Phase II was previously extended. The previous extension included a WPA Form 9 – Conditions of Extension that was recorded on the deed. The condition for Extension set under the local bylaw was: “A letter must be submitted from an Engineer certifying that the project complies with DEP Stormwater Standards of January 2, 2008.” Ms. Washburn said as far as she can tell, such a letter was never submitted. She asked Graves Engineering and they have no record of having written such a letter. Now that Mr. Murkland has sold the project to Jesse Kady, the responsibility to submit the letter before building the road lies with him.

No work should be done to construct the Phase II road until:

- the required letter is submitted,
- the amended Order of Conditions has been issued,
- all missing flags have been replaced and inspected,
- the DEP sign is posted
- erosion controls have been installed as per the plan approved under the amended Order of Conditions
- a third-party engineer has been contracted to monitor the road construction and report to the Town
- the contractor has the amended Order of Conditions and a copy of the plan approved under the amended Order of Conditions on site at all times.

A tech review for Candlewood Phase II is scheduled for March 21, 2017. The Town Planner intends to contract with a third-party engineer at the applicant's expense, to monitor construction of the road and report to the Town. This contract will likely be in place by the time the amended Order of Conditions is issued.

Mr. Kady said he understands that any lot that has wetland conditions needs a filing with Conservation. As of right now he is going to start on the road. Ms. Washburn said Mr. Kady must hire an engineer to write the letter stating that the project was built to conform with the DEP Stormwater Regulations in place at that time.

66 GH Wilson Road: Ms. Washburn said she received two complaints about vegetation being cut near a beaver lodge, on the Bank of a pond and in the buffer zone to a pond, operating hydraulic equipment within 40 feet of a pond without an oil absorbent boom deployed, failure to obtain a permit from the Conservation Commission, dropping trees on the beaver lodge, and stacking the brush on top of the beaver lodge. The neighbors believed that the Maloneys were going to light the brush on fire and burn the beaver

lodge. Ms. Washburn said when she inspected Eric Monette and a worker had a trailer-load of brush loaded to haul away. She told them they had to stop and they did. She explained to them that Conservation is charged with protecting wildlife habitat.

Ms. Washburn said she went to 66 GH Wilson Road and gave Ms. Maloney a verbal Cease and Desist Order. She explained to Ms. Maloney that they can hire a licensed trapper and go to the Board of Health for a beaver removal permit and that it is illegal to disrupt the beaver lodge without a permit. Ms. Washburn mailed a Cease and Desist Order, certified, on 2/28/17, requiring Dr. Maloney to come to tonight's meeting. Dr. Maloney has been told in the past to contact the Conservation Commission when working in the buffer zone.

Dr. Maloney has a long history of cutting vegetation in the buffer zone and operating hydraulic equipment within 40-feet of the pond without an oil-absorbent boom in place. Dr. Maloney was previously issued Notices of Violation by the Spencer Conservation Commission in the past for similar violations dating back to April 16, 2008, and again on November 2, 2015. People who have complained have stated that Dr. Maloney typically commits these violations on the weekends when the Conservation Agent is not available.

In a separate location at 66 GH Wilson Road, Dr. Maloney has also been cutting trees in the buffer zone and apparently in the wetlands between his yard and Chickering Road so he can get a better view of Stiles Reservoir.

The people who complained requested that the Commission issue Dr. Maloney an Enforcement Order stating that he needs to obtain a permit every time he wants to cut vegetation in a resource area or buffer zone, or use hydraulic equipment within 40 feet of the pond.

Ms. Washburn recommended that the Commission do a site visit to view the various areas where the Maloneys have done work without permits or oil-absorbent booms.

Dr. Maloney said the trees were dead. He used a 4-wheeler and a winch to pull out the trees. He said he does the work on weekends because he works all week long. Dr. Maloney said he has no intention of getting rid of the beavers. He said he didn't cut down trees. He was moving dead trees that the beavers cut down. He intended on using the wood for fire wood. A site inspection has been scheduled for March 18, 2017 at 9 a.m.

48 Paxton Road & 19 Woodchuck Lane: Ms. Washburn said she received a request for a partial bond release on March 6, 2017 for the solar farms; corresponded with contractor, Graves Engineering and Lenard Engineering regarding appropriate amounts to release. The contractor has been asked to provide some calculations and the specific amount requested, on which to base the amount to be released.

New Applications: Cranberry Meadow Lake, NOI

A motion to adjourn the meeting at 9:05 p.m. (Graeff/Emerson) passed 5/0.

Respectfully submitted by:

Lisa Daoust, Senior Clerk
Development & Inspectional Services

Documents reviewed at the 3/8/17 Spencer Conservation Commission meeting:

Agenda for the 3/8/17 meeting
Margaret's report dated 3/8/17
Minutes from the 2/22/17 CC meeting
NOI file for 68 & 70 Donnelly Road
Quinn Engineering report dated 2/28/17 for 68 & 70 Donnelly Road
Lenard Engineering report dated 3/6/17 for 68 & 70 Donnelly Road
Continuation form for 68 & 70 Donnelly Road (signed)
Continuation form for 3 Old Meadow Road (signed)
RDA file for 70 Chickering Road including Negative Determination (signed)
Request for extension for Sugden Reservoir herbiciding from Solitude Lake Management
Site photos and inspection reports for 66 GH Wilson Road
Certificate of Compliance for Richland Avenue (re-signed)
Candlewood Phase II Order of Conditions, inspection report, site photographs and plan
approved by Spencer Planning Board
Brian Graeff shared documents from the 2017 MACC annual meeting:
Eight interests of the MA Wetlands Protection Act (WPA)
Conservation Commission Meeting Rules
Conservation Commission Public Hearing Procedure